

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-028-00454A

Parcel No. 410-18-00-003-00

CJ BACON & SONS,

Appellant,

v.

DELAWARE COUNTY BOARD OF REVIEW,

Appellee.

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 10, 2015. Curtis Bacon represented CJ Bacon and Sons. County Attorney John Bernau represented the Delaware County Board of Review.

CJ Bacon and Sons is the owner of agriculture property located in S Fork Township in Delaware County. The subject property is 35.65 acres of land with no improvements.

The property's January 1, 2015, assessment was \$32,700.

CJ Bacon and Sons protested to the Board of Review documenting its assertions in the portion of the form reserved for an equity claim. Essentially, we find the claim is actually a claim of error in the assessment under Iowa Code section 441.37(1)(a)(1)(d). CJ Bacon & Sons asserted the assessment was incorrect and the land, which is rock sand with wild trees, had not changed in the last thirty years. The Board of Review denied the protest.

CJ Bacon and Sons then appealed to PAAB.

Findings of Fact

CJ Bacon and Sons asserts the property's assessment should be \$17,600, which was the 2014 assessed value. It submitted several photographs of the subject site,

asserting the photos demonstrate the property is rocky, treed, and has limited utility. (Exs. 1-6). Curtis Bacon, an owner of the site, explained a portion of the subject site is currently cropped, and a CSR Report the Board of Review submitted confirms that 10.58 acres is cropped. (Ex. F).

Curtis also testified and stated the property was assessed for more than another abutting agricultural parcel they also own.

Charles J. Bacon also testified, echoing Curtis' assertion that the majority of the site is sand and rocks.

Delaware County Assessor Andrea Schmidt testified on behalf of the Board of Review. Schmidt explained that agricultural land is assessed based on the parcel's CSR, which provides a relative ranking of all soils mapped in the state of Iowa based on their potential to be utilized for intensive row crop production. The Department of Revenue adopted the new CSR2 system in 2013, which was developed and is maintained by the Natural Resource Conservation Service (NRCS). The Department mandated all assessors use the CSR2 on or before 2017. Schmidt testified that the new CSR2 rating system was implemented by Delaware County for the 2015 assessment.

Schmidt explained a portion of the subject site is cropped and a portion is not cropped, and that these categories are treated differently in the assessment process. (Ex. J). The soil types are identified for the subject site, (Ex. G) and the individual soil designations are then referenced in the CSR report, which shows how many acres are in each soil type and the corresponding CSR points. (Ex. F).

In response to CJ Bacon and Sons' assertion that a large part of the site is rock and sand, Schmidt explained that the average CSR in Delaware County is 70, and 50% of that average is 35. Therefore, any designated non-crop area with a CSR above 35 is adjusted downward. She noted the subject site has only one soil type that required adjustment because its non-crop soil rating was above 35; that was the soil type (110B) Lamont fine sandy loam with a CSR rating of 52; it has 2.16 acres. Moreover, she notes the average CSR for the subject site is roughly 25.9, which is already much lower than the county average. (Ex. F). The property's adjusted CSR points (893.70) are

then multiplied by the rate of \$36.64 to determine a computed total value of \$32,700. The rate is specific to Delaware County and is determined on a five-year average of productivity and net earnings data.

PAAB asked Schmidt if she applied any spot adjustments, and she explained that the new CSR2 rating system eliminated all spot or line adjustments.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

CJ Bacon and Sons contends there is an error in its assessment. Section 441.37(1)(a)(1)(d) is not limited solely to clerical or mathematical errors, but includes other claims of error. Iowa Admin. Code r. 701-71.20(4)(b)(4) (nothing improper classification also constitutes an error).

The subject property is agricultural realty, which requires it be valued using its productivity and net earning capacity based on a formula prescribed by the Department of Revenue. § 441.21(1)(e); R. 701-71.3, 701-71.12. In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the Department of Revenue, the IOWA REAL PROPERTY APPRAISAL MANUAL, and to

consider the results of a modern soil survey, if completed. § 441.21(1)(f); R. 701-71.3. The Assessor's Office is also required to determine which portion of the property qualifies as non-cropland and make adjustments to non-cropland in future years. R. 701- 71.3(1)(b-c); IOWA DEPARTMENT OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL 2-25 to 2-34.

CJ Bacon and Sons did not submit any evidence to show that that the current valuation based on the CSR2 rating results in an error.

Order

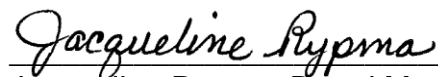
IT IS THEREFORE ORDERED that the Delaware County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

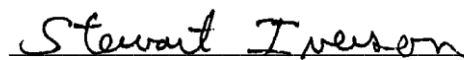
Dated this 20th day of November, 2015.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:

CJ Bacon and Sons

John Bernau